

# Notes

<sup>1</sup> Raves are all-night dance parties, usually advertised as “alcohol free” to allow for the admission of under-age children and young adults. Techno, industrial, trance, and other music genres are the focus of the rave experience. “Circuit parties” are multi-day gatherings of gay and bisexual men that occur each year at around the same time, in the same town or city and centered on one or more large, late-night dance events that often have a theme. Rave events attract from hundreds to thousands of participants, while circuit parties may attract as many as 20,000 men to a local community. Widespread and open drug consumption appears to be the norm at some of these events.

<sup>2</sup> GHB (gamma hydroxybutyric acid), under the trade name Xyrem, was approved in July 2002 by the Food and Drug Administration (FDA) for the treatment of cataplexy, a sudden loss of muscle tone associated with narcolepsy. The availability of small quantities of legally manufactured GHB has not changed the fact that the vast majority of abused GHB is of illicit origin.

<sup>3</sup> For more information, see the DEA FactSheet: <http://www.usdoj.gov/dea/pubs/pressrel/methfact01.html>

<sup>4</sup> The Drug Abuse Warning Network (DAWN) Report, prepared under the auspices of the Department of Health and Human Services, compiles information from a survey of data on patients seeking hospital emergency department treatment related to their use of illegal drugs or non-medical use of legal drugs. Since 1988, DAWN data has been collected from a representative sample of eligible hospitals—non-Federal, short-stay general hospitals with a 24-hour emergency department—located throughout the United States, but excluding Alaska and Hawaii. The data is used to estimate the total number of emergency room drug episodes and mentions of specific drugs in all such hospitals. The DAWN system also collects data on drug-related deaths from a nonrandom sample of medical examiners. DAWN emergency room mentions for all drugs have remained relatively stable from 1999 through the first half of 2002.

<sup>5</sup> SAMHSA Office of Applied Studies, DAWN 2001 data. Two out of three emergency room episodes involving ketamine involved alcohol or another controlled substance as well.

<sup>6</sup> The Monitoring the Future Study is conducted by the University of Michigan Institute for Social Research and funded by the National Institute on Drug Abuse (NIDA). The statistics reported here should be considered in the context of the overall U.S. drug use profile. The 2001 Household Survey estimates that the overall rate of “current illicit drug use” (defined in the survey as use within the past 30 days) increased slightly in 2001, but the rate had been stabilizing in previous years. The rate of current illicit drug use among youth age 12-17 (approximately 10.8 percent in 2001) is higher than the rate of use among the overall population age 12 and older (approximately 7.1 percent).

<sup>7</sup> SAMHSA Office of Applied Studies, DAWN 2002 data.

<sup>8</sup> The National Institute of Justice's Arrestee Drug Abuse Monitoring (ADAM) program tracks trends in the prevalence and types of drug use among arrestees in urban areas. The program provides local area estimates of the rate of drug use among adult and juvenile arrestees based on voluntary and anonymous interviews and urine specimen collection undertaken within 48 hours of arrest. The program currently operates in 39 sites with data collection taking place for a period of time each calendar quarter. The ADAM program, however, does not report national estimates. Preliminary findings for 2001 are based on reports from 27 sites involving adult male arrestees. The reason for the regional variance in the data is unknown.

<sup>9</sup> Community Epidemiology Working Group, *Epidemiologic Trends in Drug Abuse: Advance Report*, June 2003, p. 10. Hawaii HIDTA 2003 Threat Assessment, pp. 23-24. According to the Treatment Episode Data Set (TEDS), admissions for methamphetamine abuse increased overall from 498 in 1993 to 1,548 in 2000. Nearly 36 percent of all adult arrestees tested positive for methamphetamine use. The methamphetamine-associated death toll rose from 27 deaths in 1998 to 54 in 2001.

<sup>10</sup> SAMHSA Office of Applied Studies, *The DAWN Report: Club Drugs, 2002 Update*, July 2004, p. 1-3.

<sup>11</sup> The Community Epidemiology Work Group (CEWG) of the National Institute of Drug Abuse collects and analyzes drug data from a number of quantitative and qualitative sources, including, among others, ADAM, DAWN, and DEA seizure, price, purity, prescription/distribution, and arrest data. The CEWG reports that in the 21 areas that comprise its surveillance network, MDMA is readily available at raves and other dance parties and nightclubs, and MDMA use is spreading beyond these locales into more casual social settings. Deaths linked to MDMA occur, but are unpredictable, and are not necessarily related to the dose (DAWN statistics reveal 27 deaths possibly linked between 1994 and 1998). The June 2002 CEWG report also notes that mentions of MDMA and other club drugs in mortality data, while climbing, remain relatively low.

<sup>12</sup> SAMHSA Office of Applied Studies, *The DAWN Report: Club Drugs, 2002 Update*, July 2004, p.1-3.

<sup>13</sup> 2002 Monitoring the Future study.

<sup>14</sup> SAMHSA Office of Applied Studies, *The DAWN Report: Club Drugs, 2002 Update*, July 2004, p. 1-3.

<sup>15</sup> 2002 Household Survey.

<sup>16</sup> SAMHSA Office of Applied Studies, *The DAWN Report: Oxycodone, Hydrocodone, and Polydrug Use, 2002*, July 2004, p. 1-3. The DAWN Report cautions that estimates for oxycodone mentions should not be attributed to any particular brand of analgesic containing oxycodone.

<sup>17</sup> SAMHSA Office of Applied Studies, DAWN 2002 data. Also see Community Epidemiology Working Group, *Epidemiologic Trends in Drug Abuse: Advance Report*, June 2003, p. 42, which states that PCP indicators increased in Los Angeles, Philadelphia, Phoenix, Washington, DC, and Texas, and remained steady in Chicago.

<sup>18</sup> 2000 Household Survey.

<sup>19</sup> Monitoring the Future surveys of LSD use began in 1991 for grades 8 and 10 and in 1975 for grade 12. The 2001 survey results were mixed, with past month use increasing among 12th graders from 1.6 percent to 2.3 percent, while past year use declined among 10th graders from 5.1 percent to 4.1 percent. As of 2001, an estimated 10.9 percent of 12th grade students reported use of LSD at some point in their lives.

<sup>20</sup> SAMHSA Office of Applied Studies, *The DAWN Report: Club Drugs, 2002 Update*, July 2004, p. 1-3.

<sup>21</sup> Unless otherwise noted, the source of the data in this section is DEA Headquarters.

<sup>22</sup> EPIC National Clandestine Laboratory Seizure System, 2003 data. Thanks to improved reporting, EPIC lab figures have become more comprehensive and reliable. The Bureau of Justice Assistance and the Community-Oriented Policing Services (COPS) program have agreed to require state and local governments to report lab seizures to EPIC as a condition of federal lab cleanup grants.

<sup>23</sup> EPIC National Clandestine Laboratory Seizure System, 2003 data.

<sup>24</sup> EPIC National Clandestine Laboratory Seizure System, 2003 data.

<sup>25</sup> Based upon the number of labs seized, a very rough estimate is that there are 10 times as many labs in operation as are ever seized. Base upon the amount of methamphetamine produced by these labs, officials estimate that up to 2,844,000 pounds of toxic by-products of methamphetamine production have been dumped in California.

<sup>26</sup> EPIC National Clandestine Laboratory Seizure System, Drug Endangered Children, 2003 data.

<sup>27</sup> The Netherlands and Belgium are conservatively estimated as being the source of roughly 70 percent of the MDMA consumed worldwide.

<sup>28</sup> EPIC National Clandestine Laboratory Seizure System, 2002 data. The number of labs seized in the United States during 1995-2002 is as follows:

Year	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004 thru Oct. 6
# Labs	3	5	4	4	13	8	11	10	10	13

<sup>29</sup> One cause for concern is the entry of Mexican, Dominican, Asian, and Colombian trafficking groups into the MDMA distribution network.

<sup>30</sup> Figure 18 reflects interagency data compiled by EPIC, showing that approximately 1.5 million MDMA pills were seized in the U.S. arrival zone in 2003. This figure was down from approximately 3.6 million tablets in 2002, which was in turn less than the approximately 6.8 million tablets seized in 2001, the highest number ever; the figure for 2000 was about 5.8 million tablets. Domestic (non-arrival) seizure figures have shown a similar trend: approximately 3.5 million tablets in 2003, 8.3 million in 2002, 11 million in 2001, and 8.3 million in 2000.

<sup>31</sup> Customs 2001 seizure data.

<sup>32</sup> Community Epidemiology Working Group, EPIC, and DEA.

<sup>33</sup> Community Epidemiology Working Group, EPIC, and DEA.

<sup>34</sup> MDMA Trafficking in the United States, Epidemiologic Trends in Drug Abuse Advance Report, December 2001, Community Epidemiology Work Group. DEA uses various sources to assess the trafficking of MDMA in the United States. These included the United States Customs Service reports; the National Forensic Laboratory Information System (NFLIS); and the DEA Source Determination Program. DEA drug testing laboratories are located in seven CEWG areas: Miami, New York City, Washington, D.C., Chicago, Dallas, San Francisco, and San Diego. In addition, a special testing and research lab is located in Chantilly, Virginia.

<sup>35</sup> Rocky Mountain HIDTA 2002 Threat Assessment, p. 37. 2 labs were seized in Colorado Springs, and 1 lab was seized in Ft. Collins.

<sup>36</sup> Rocky Mountain HIDTA 2002 Threat Assessment, p. 37. This takedown was part of Operation Green Clover.

<sup>37</sup> An international ketamine smuggling organization was exporting thousands of vials at a time from Mexico on a frequent basis.

<sup>38</sup> Various sources within the Departments of Health and Human Services (HHS) and Justice provide data and analyses useful for detecting emerging drug trends that communities can target as part of their overall prevention efforts. Initiatives include State Incentive Grants for Community-Based Action distributed to 27 governors' offices and the mayor's office in the District of Columbia in support of planning for coordinated substance abuse prevention efforts.

<sup>39</sup> The National Institute on Drug Abuse (NIDA) conducts a comprehensive, multidisciplinary prevention research program examining the interaction of multiple factors that contribute to and protect against drug abuse. In 1997, based on more than 20 years of prevention research, NIDA identified fundamental principles of drug abuse prevention in the publication *Preventing Drug Use Among Children and Adolescents*. The publication also discusses community drug abuse risk assessment, prevention program implementation and evaluation, and scientific findings about the efficacy of several identified programs. This publication is currently being revised to account for new findings. NIDA's "InfoFacts" system and Research Report Series allow access to publications containing pertinent information with respect to prevention efforts targeting methamphetamine, the "club drugs," and OxyContin and other prescription drugs. Information is available on the Internet site [www.clubdrugs.org](http://www.clubdrugs.org). NIDA is now developing a Research Report publication that will focus on MDMA and possibly other synthetic drugs. Basic educational efforts include the teaching aid series "Mind Over Matter," a component of the "NIDA Goes to School" program that distributes information to schools and encourages students to learn about the effects of drugs on their bodies and brains. Research-based materials, such as a popular poster-magazine series, include a segment on methamphetamine, and NIDA is developing materials on MDMA. NIDA has completed a curriculum for high school students as well as curricula for second and third grade students; curricula for kindergarten, first grade, and fourth and fifth grade students are still under development. Furthermore, a teaching packet, "The Neurobiology of Ecstasy," now available on NIDA's Internet site, was developed for use by teachers and researchers primarily working with high school students. NIDA also recently set aside additional funding for the Prevention Research Initiative, which includes: (1) development of new approaches for prevention, building on scientific findings; and (2) enhancement of dissemination of effective prevention practices through multi-site studies in community settings.

<sup>40</sup> The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Prevention (CSAP) has created a National Registry of Effective Prevention Programs (NREPP) to catalog programs found to be effective. Through this effort, CSAP has developed and implemented a comprehensive system to identify and disseminate scientifically proven model prevention programs to local communities. This effort directly supports the HHS State Incentive Grant program. Additionally, prevention research is funded through the Substance Abuse Prevention and Treatment Block Grant Program and the Programs of Regional and National Significance focus on more effectively delivering prevention services.

<sup>41</sup> In addition to urine-based tests conducted in specially inspected and certified laboratories, new federal regulations are nearing completion that would include alternative technologies allowing the testing of specimens such as hair, oral fluid, sweat, and allowing point of collection (onsite/immediate screening) tests. Further information can be found on the Internet at [www.drugfreeworkplace.gov](http://www.drugfreeworkplace.gov). The NLCP also collaborates with military, criminal justice, transportation, educational institution, clinical, and sports-related testing efforts nationally and internationally.

<sup>42</sup> The campaign involves \$5 million in purchased messages targeting youth and adults and an additional \$3.9 million in pro bono media-match messages targeting parents. In addition, ONDCP redesigned its newspaper and news-oriented magazine outreach efforts to better target parents and met with entertainment industry writers and executives in Los Angeles and in New York to discuss the dangers of synthetic drugs.

<sup>43</sup> Since 1998, DEA's Drug and Chemical Evaluation Section of the Office of Diversion Control, in conjunction with Demand Reduction and Training Coordinators from the 22 DEA field divisions, has provided scientific conferences on "club drugs" in over 70 communities across the U.S. that addressed and disseminated information to law enforcement, drug treatment pro-

professionals, medical emergency technicians, physicians, and hospital staff on issues of health and safety regarding these drugs. It is estimated that over 10,000 state and local police officers have attended one of these conferences thus far.

<sup>44</sup> DEA is joining with anti-drug coalitions, the medical community, state legislators, community leaders, and ordinary citizens in "town hall" meetings that feature discussions between local residents and a panel of local and national experts. Meetings so far have taken place in San Diego, Kansas City, Miami, and New York, and more are planned. The campaign can be replicated and customized in communities across the nation. Additionally, "Integrated Drug Enforcement Assistance" (IDEA) is an integrated enforcement and community-based demand reduction program sponsored by DEA in six communities. The program features DEA enforcement activities followed by the implementation of a community developed strategy to prevent future illegal drug use. Additional pertinent DEA publications include *Get It Straight! A Prevention Book for Young Americans*. All publications are available on-line.

<sup>45</sup> The "early identification" of new illicitly used synthetic drugs, and the measurement and understanding of the true impact, require the development, validation, and dissemination of new drug detection tools and tests. The process includes a wide range of participants and resources from government, academia, instrument manufacturers, clinical and forensic pathologists, toxicologists, and their support laboratories. These groups network actively and recognize the need for new tests, but it remains a challenge to develop commercially available test products to specifically detect and measure the presence of some synthetic drugs.

<sup>46</sup> Much abuse trend information is collected by public health and law enforcement agencies. DEA is often able to undertake emergency regulatory action based on preliminary information about abuse and trafficking of non-controlled substances. For example, as noted in Appendix D of this Action Plan, from 2002 to the present, DEA has undertaken temporary, emergency scheduling of five club drugs, all of which had been marketed as legal alternatives to MDMA. As part of its function to monitor new and emerging drug problems, the Drug & Chemical Evaluation Section of DEA's Office of Diversion Control currently has a system which has identified specific drug problems well in advance of national crises as well. Likewise, institutionalized fora exist to review available data. An Interagency Committee on Drug Control (ICDC) meets monthly to discuss emerging drug problems and consider appropriate, multi-faceted responses. The ICDC involves the Office of National Drug Control Policy, the National Institute on Drug Abuse, the Food and Drug Administration, and the Drug Enforcement Administration. The Community Epidemiology Working Group meets twice a year to review current and emerging substance abuse data.

<sup>47</sup> These efforts may include, among other things, data from HHS Methamphetamine and Ecstasy infrastructure grant recipients and DOJ Weed and Seed sites, as well as data from NIDA/CEWG, DAWN, and DEA. The compilation and analyses can be used internally for policy and program development and could be made available in some form for community use from an existing Internet-accessed federal SAMHSA server using the Prevention Decision Support System query and needs assessment resources.

<sup>48</sup> SAMHSA's Substance Abuse Treatment Facility Locator, Treatment Improvement Exchange, and National Clearinghouse for Alcohol and Drug Information can be accessed via the internet at [www.findtreatment.samhsa.gov](http://www.findtreatment.samhsa.gov), [www.treatment.org](http://www.treatment.org), and [www.health.org](http://www.health.org) respectively.

<sup>49</sup> During the annual UN Commission on Narcotics and Drugs (CND) International Narcotics Control Board (INCB) meeting in Vienna, in March, 2001, the United States and the European Union (EU) passed a joint resolution on synthetic precursors:

- Recommending creation of an early warning system to identify and advise industry on new chemicals used in illicit synthetic drug manufacture.
- Urging countries to comprehensively test seized synthetic drugs and establish a network of collaborating laboratories to track new illicit drug manufacturing trends.
- Specifically targeting the precursor PMK, a key chemical in MDMA production with limited legitimate commercial use.

<sup>50</sup> 21 U.S.C. § 971.

<sup>51</sup> The procedures used by DEA to administer the "letter of no objection" system have been challenged, with partially adverse results, in the U.S. District Court for the District of Columbia. *PDK Labs Inc. v. Ashcroft*, Civil Action Nos. 00-2894 and 00-2899 (HHK). PDK Labs Inc. is a manufacturer of drug products containing precursor chemicals, but is not registered to import such chemicals. PDK challenged DEA's denial of its right to request an administrative hearing after DEA failed to grant a letter of no objection to the firm importing chemicals for sale to PDK.

<sup>52</sup> Title VI, Subtitle A of Pub. L. 100-690 (part of the "Anti-Drug Abuse Act of 1988"), passed November 18, 1988.

<sup>53</sup> Title XXIII (Sec. 2301) of Pub. L. 101-647 ("Crime Control Act of 1990"), November 21, 1990.

<sup>54</sup> Pub. L. 103-220, effective April 16, 1994.

<sup>55</sup> Pub. L. 104-237, signed October 3, 1996. DEA has finalized implementing regulations, with a transaction threshold of 0.4 kilograms (about 1 pound). In order to ensure that the federal government itself does not become a source for diverted chemical materials, the DEA, pursuant to 21 U.S.C. § 890 and procedures in recently published proposed regulations, monitors sales of crude iodine from the chemical stockpiles maintained by the Department of Defense. With respect to each known potential bidder, DEA certifies whether there is reasonable cause to believe that a sale would result in the illegal manufacture of a controlled substance. To make this determination, DEA examines the prospective bidder's and end-user's past experience in maintaining effective controls against diversion and other relevant factors. The system works satisfactorily, although it is difficult for DEA to generate the necessary certification correspondence within the 15 day bid "window" when a new firm appears as a bidder. Overall, diversion from this stockpile is unlikely because of the close government scrutiny, the very large volumes involved (5,000 pounds is the smallest quantity purchased under the program so far), the transportation logistics, and the extensive processing required to make the crude form of extracted iodine commercially useable.

<sup>56</sup> *United States v. Lopez*, 514 U.S. 549, 581 (1995) (Kennedy, J., concurring), cited and quoted in *Grutter v. Bollinger*, 539 U.S. 306, 342 (2003).

<sup>57</sup> There have been reports of more frequent theft of anhydrous ammonia, a farm fertilizer used to manufacture methamphetamine. Theft of anhydrous ammonia is a federal crime, see 21 U.S.C. 864. Some states, such as North Dakota, have taken actions to improve security at ammonia distribution centers and to encourage farmers to buy locks for their anhydrous ammonia tanks. Some states have criminalized or enhanced penalties for the theft of anhydrous ammonia. Further efforts, such as federal assistance to develop a "best practices" manual, may be warranted.

<sup>58</sup> See 21 C.F.R. 1310.12 and 1310.13, as published at 68 Fed. Reg. 23195 (May 1, 2003).

<sup>59</sup> In addition to the above figures, 20,000 kilograms of ma huang, which contains ephedra, were voluntarily withdrawn by an importer in May 2003, due to new FDA action which effectively banned the marketing of ma huang in products marketed as dietary supplements.

<sup>60</sup> A public-private Suspicious Orders Task Force was established as a result of Sec. 504 of the Comprehensive Methamphetamine Control Act of 1996. The group consisted of federal and state regulators and law enforcement officials and the regulated business community; it met five times and, in a report to the Attorney General dated February 1999, agreed to several voluntary measures that, if widely implemented, will assist both industry and law enforcement. The Suspicious Orders Task Force identified indicators of suspicious transactions, recommended that manufacturers of retail over-the-counter drug products containing methamphetamine precursors limit package sizes and use only "blister" packaging, and recommended that all retail sales of elemental iodine and red phosphorous be reported to DEA. Many segments of industry have implemented these recommendations.

<sup>61</sup> Pfizer Pharmaceutical invested \$12 million over five years into the development of a new technology which would make it impossible for methamphetamine traffickers to use Sudafed and related products for illicit purposes. While initial attempts proved unsuccessful, research continues.

<sup>62</sup> The final regulations were published in the Canada Gazette Part II, Vol. 136, No. 21 on October 9, 2002. A 1996 law, the "Controlled Drugs and Substances Act," was unable to stem the chemical flow until these implementing regulations were promulgated.

<sup>63</sup> The operations undertaken so far have been, in order, "Purple" for the cocaine oxidizing agent potassium permanganate, "Topaz" for the heroin chemical acetic anhydride, and "Prism" for the precursors to amphetamine-type stimulants.

<sup>64</sup> The U.S. position is that such pharmaceutical preparations should be controlled pursuant to Article 12(14) of the 1988 UN Convention.

<sup>65</sup> Under the Methamphetamine Anti-Proliferation Act of 2000 (MAPA), DEA was directed to prepare a report to Congress on the blister pack exemption. DEA forwarded a report to Congress in November of 2001 recommending the removal of this exemption and the imposition of a strict 9 gram threshold, the limit allowed by Congress for non-blister pack product, and the current threshold for non-blister pack pseudoephedrine products. See Sec. 3642 of the Methamphetamine Anti-Proliferation Act of 2000, set forth at 21 U.S.C. § 802 (note), for more details. In October 2003, Sen. Feinstein introduced a bill (S.1784) proposing the removal of this exemption.

<sup>66</sup> See 21 U.S.C. § 971.

<sup>67</sup> Although DEA regulates imports of listed chemicals through a pre-notification/verification system and "letters of no objection" to governments in key chemical source countries, it effectively loses oversight once a shipment enters the United States. If the importer's sale to the declared customer is not consummated, the chemicals may be sold on the "spot market" without DEA oversight, which in effect circumvents the legal controls on chemical imports.

<sup>68</sup> See for example 21 U.S.C. 952 (import controls), 823 (registration requirements), and 826 (production quotas). For technical reasons, it is impractical under the current laws to designate bulk ephedrine and pseudoephedrine as “immediate precursors” of methamphetamine. See 21 U.S.C. 802(23), but see also 811(g).

<sup>69</sup> Because pharmacies are specifically exempt from registration to handle List I chemicals, by virtue of their registration to handle controlled substances (they would also be exempt as retail outlets under a separate provision of the DEA regulations), they do not receive pre-registration site visits by DEA and are not systematically made aware of the chemical diversion problem. Cases involving large-scale diversion from pharmacies have been reported nationwide and, in many cases, in regions not associated with methamphetamine production.

<sup>70</sup> The continued proliferation of thousands of small clandestine methamphetamine labs throughout much of the country is fueled by retail-level theft and “smurfing” (the purchase of small amounts of product at several locations to avoid attention). To curb these practices, it will be necessary to further control access to the most popular precursor in the most widely used form—pseudoephedrine in over-the-counter medications—without precluding access by law-abiding consumers. Some states have imposed stricter controls than apply under federal law. For example, they set purchasing limits on all pseudoephedrine and ephedrine products, regardless of the form of packaging. Several counties and municipalities in Missouri require the placement of these products behind the store counter, much like cigarettes.

<sup>71</sup> Shortly after his confirmation, former DEA Administrator Asa Hutchinson made methamphetamine one of five priority areas. In Spring 2002, he launched a tour with the theme “Meth in America, Not in Our Town,” a nationwide campaign to raise awareness of the growing methamphetamine problem.

<sup>72</sup> The NMCI has created a secure, internal web site where law enforcement officials share ideas and information.

<sup>73</sup> The task force includes representatives from DEA, FBI, ICE, DCIS, EPA, US Attorneys’ Offices, the California Department of Justice, the Kentucky State Police, the Oregon State Police, the Rocky Mountain HIDTA, the Arizona Attorney General’s Office, the California Department of Toxic Substance Control, the Phoenix Police Department, the Mesa, Arizona Police Department, and the Arizona Department of Public Safety.

<sup>74</sup> The funds are provided to DEA through the Community-Oriented Policing Services (COPS) program.

<sup>75</sup> Two DEA components provide training on Internet-based investigations.

<sup>76</sup> Persons tracing their national and ethnic roots to the Middle East have been disproportionately represented among the ranks of “rogue” chemical company executives, brokers, and smugglers of illicit pseudoephedrine from Canada to the United States.

<sup>77</sup> Median sentences in 2000 and 2001 were 30 months.

<sup>78</sup> Specifically, two large-scale traffickers were extradited from Israel on charges in Miami in July 2002 for conspiracy to import MDMA into the U.S. (the first extradition of any Israeli citizen to the U.S. for a drug crime); three Israelis, who were part of a sophisticated drug trafficking organization based in Israel, were arrested after an international controlled delivery of 1.4 million Ecstasy pills hidden in three diamond polishing tables; and Israeli citizen Oded Tuito, a designated “kingpin” under the Foreign Narcotics Kingpin Designation Act, was indicted and extradited from Spain to face charges in the Eastern District of New York (Brooklyn) stemming from his leadership of the world’s largest MDMA smuggling ring.

<sup>79</sup> 21 U.S.C. 856.

<sup>80</sup> Labs that produce less than two ounces of methamphetamine per batch are considered small labs. See USSG § 2D1.1(c)(6), which responds to Sec. 3612 of MAPA. Career offender enhancements may also be available in these cases. See USSG §4B1.1.

<sup>81</sup> In 2000, only 31 federal methamphetamine defendants received this adjustment under Sentencing Guideline USSG § 2D1.1(b)(5). While not all 3,358 methamphetamine offenders were prosecuted for offenses related to manufacturing—as opposed to importation or distribution—the number of labs seized indicates that many were charged with manufacturing methamphetamine.

<sup>82</sup> These “fake” and “knock off” products add to the existing uncertainty and danger of the drug market, and in particular the club drug scene.

<sup>83</sup> Some of the approaches suggested in this outline for faster and more comprehensive data gathering and dissemination could require additional resources. As appropriate, options for additional funding should be considered.

<sup>84</sup> This data can be complemented by review of “Microgram,” a publication compiled by the DEA Office of Forensic Sciences that tracks unusual drug seizures and means of concealment.

<sup>85</sup> Small cities and towns and rural areas must somehow be included—this will help avoid missing the “next” OxyContin or methamphetamine problem. It is acknowledged that it will be a challenge to select “representative” or “bellwether” towns.

<sup>86</sup> The new equivalencies for MDMA and related substances were first set by emergency amendments to USSG § 2D1.1 (Amendment 609, effective May 1, 2001) and were repromulgated and made permanent by Amendment 621. See U.S. Sentencing Guidelines Manual, supp. to app. C. (2001).

<sup>87</sup> USSG § 2D1.1, Amendment 640 (2001).

<sup>88</sup> For consistency and simplicity, references throughout this Action Plan are to Sentencing Guidelines ranges for “criminal history category I.” Generally, offenders in this category have never been incarcerated or have been imprisoned on only one occasion for less than 60 days. Chapter 4 of the U.S. Sentencing Guidelines sets forth a point system of factors for assessing a defendant’s criminal history. The higher the criminal history category, the longer the sentence.

<sup>89</sup> The Commission’s proposed changes, which will go into effect unless Congress revises them, were published at 69 Fed. Reg. 28994 (May 19, 2004).

<sup>90</sup> This Action Plan includes only limited recommendations for changes to the federal sentencing guidelines. Rather than setting forth extensive proposals at this time, DOJ components will work to assure that, if necessary, legislative and guidelines changes occur so that sentences for particular offenses more appropriately reflect the harm suffered.

<sup>91</sup> U.S. Sentencing Guidelines Manual, supp. to app. C. (2001), Amendment 640.

<sup>92</sup> Section 608 of Pub. L. 108-21 (passed as S. 151), signed April 30, 2003 (the “PROTECT Act”).

<sup>93</sup> It should be noted that affirmative civil litigation seeking civil penalties and injunctions under the Controlled Substances Act against persons and firms that violate the chemical control system has increased in recent years. A small, informal cadre of federal affirmative civil enforcement litigators has developed— some focusing on chemical importers and over-the-counter drug manufacturers in judicial districts far from areas of methamphetamine production